

REMARKS

Claims 2-4, 6-11, 14-18, 23-25 and 27 are pending in the application. Claims 15, 25 and 27 have been amended in be in independent form and claim 16 has been amended to include the features of a measuring means for measuring a tilt of a vehicle path and determining means for determining a Vehicle Specific Power. Claims 2, 3, 14, 23 and 24 have been amended so as not to depend on a canceled claim.

DRAWINGS

It is stated in the outstanding Office Action that the drawing correction submitted on February 5, 2003 has been approved. A proper drawing correction was requested in response to the Office Action. Submitted herewith is a clean copy of the approved drawings (FIGs. 2-6) submitted on February 5, 2003 changing the reference number 24 to 27.

CLAIM OBJECTIONS

There was an objection to claims 12 and 21 in the outstanding Office Action. Claims 12 and 21 have been canceled without prejudice or disclaimer obviating the objection. Therefore, reconsideration and withdrawal of the objection is respectfully requested.

CLAIM REJECTIONS – 35 USC §103

Claims 2-4, 6-14, 16-18, 21-24 and 26 were rejected under 35 U.S.C. §103 as being unpatentable over McConnell et al. in view of the publication to Domens et al. (EP 1048961). Reconsideration and withdrawal of the rejection are respectfully requested.

Neither McConnell et al. nor Domens et al. taken alone or in combination teach or suggest the invention as recited in independent claims 15, 16, 25 and 27.

The invention as recited in claims 15, 16, 25 and 27 includes the feature of determining a Vehicle Specific Power using the tilt of a vehicle path. This can be used in adjusting the measured acceleration to account for gravity pulling with against the vehicle being measured (see page 12, last paragraph and page 18, last paragraph of the present application).

It is admitted in the outstanding Office Action that the combination of McConnell et al. and Domens et al. fails to teach or suggest this feature of the invention as recited in claim 15, 16, 25 and 27. The remaining dependent claims have been amended to depend on one of the independent claims and therefore include this feature of the invention which McConnell et al. and Domens et al. fails to teach or suggest.

Therefore withdrawal of the rejection of claims 2-4, 6-14, 16-18, 21-24 and 26 under 35 U.S.C. §103 as being unpatentable over McConnell et al. in view of Domens et al. is respectfully requested.

Claims 15, 25, and 27 were rejected under 35 U.S.C. §103 as being unpatentable over McConnell et al. in view of Domens et al. and further in view of Johnson et al. (U.S. Patent No. 5,812,249). Reconsideration and withdrawal of the rejection are respectfully requested.

Neither McConnell et al. nor Domens et al. nor Johnson et al. taken alone or in combination teach or suggest the invention as recited in independent claims 15, 16, 25 and 27.

The invention as recited in claims 15, 16, 25 and 27 includes the feature of determining a Vehicle Specific Power using the tilt of a vehicle path. This can be used in adjusting the

measured acceleration to account for gravity pulling with against the vehicle being measured (see page 12, last paragraph and page 18, last paragraph of the present application).

It is admitted in the outstanding Office Action that the combination of McConnell et al. and Domens et al. fails to teach or suggest this feature of the invention as recited in claim 15, 16, 25 and 27. However it is argued that Johnson et al. teaches or suggests this feature of the invention.

Johnson et al. fails to teach or suggest this feature of the invention and further fails to provide any motivation to combine this feature of the invention with McConnell et al. and Domens et al.

The tilt sensor as recited in independent claim 15, 16, 25 and 27 is used to adjust the measured acceleration to account for gravity pulling with against (downhill uphill) the vehicle being measured (see page 12, last paragraph and page 18, last paragraph of the present application).

Johnson et al. is silent with regard to disclosing a tilt sensors and calculating a Vehicle Specific Power as recited in claims 15, 16, 25 and 27.

There is also no motivation provided to use a tilt sensor or calculate a Vehicle Specific Power as recited in claims 15, 16, 25 and 27.

In light of the foregoing, withdrawal of the rejection of claims 15, 25 and 27 under 35 U.S.C. §103 as being unpatentable over McConnell et al. in view of Domens et al. and further in view of Johnson et al. is respectively requested.

CONCLUSION

It is respectfully submitted that the application is now in condition for allowance. If it is believed that the application is not in condition for allowance, the Examiner is invited to contact the undersigned attorney if it is believed that such contact will expedite the prosecution of the application.

In the event this paper is not timely filed, Applicants petition for an appropriate extension of time. Please charge any fee deficiencies or credit any overpayments to Deposit Account No. 50-2036.

Respectfully submitted,

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